

# PENRITH LOCAL PLANNING PANEL

## DETERMINATION AND STATEMENT OF REASONS

<b>APPLICATION NUMBER</b>	DA22/0399
<b>DATE OF DETERMINATION</b>	8 February 2023
<b>PANEL MEMBERS</b>	Jason Perica (Chair) John Brunton (Expert) Mary-Lynne Taylor (Expert) Geoff Martin (Community Representative)
<b>DECLARATIONS OF INTEREST</b>	No conflicts of interest were declared
<b>LISTED SPEAKERS</b>	Jonathon Wood (Applicant) Mark Makhoul (Designer) Elizabeth Kay Vernall Rezk Gillian Watts Gian Rocco Piccirilli Sognia Piccirilli Sharon Keckes Sandra Malinowsky Ruza Ticak

Penrith Local Planning Panel Meeting held via hybrid meeting conference on Wednesday, 8 February 2023, starting at 1:00pm.

### **Matter Determined pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979**

Development Application DA22/0399, Lot 39 & 40 DP 28389, 1-3 Moira Crescent, St Marys - Demolition of Existing Structures, Tree Removal and Construction of a Childcare Centre with Basement Parking & Lot Consolidation.

### **Panel Consideration**

The Panel had regard to the assessment report prepared by Council staff, supporting plans and information, and the following environmental planning instruments and policies:

- Penrith Local Environmental Plan 2010
- Penrith Development Control Plan 2014
- State Environmental Planning Policy (Biodiversity and Conservation) 2021

- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021

In terms of considering community views, the Panel noted there was thirteen (13) submissions and one (1) petition received in response to the public notification of the Development Application and also heard verbal representations at the Panel meeting.

### Panel Decision

DA22/0399, Lot 39 & 40 DP 28389, 1-3 Moira Crescent, St Marys - Demolition of Existing Structures, Tree Removal and Construction of a Childcare Centre with Basement Parking & Lot Consolidation be approved subject to recommended conditions of consent, as amended below;

- i) Condition 1 be corrected to reference drawing date 07/02/23 for the ground floor.
- ii) A new Condition be inserted to require a photo-voltaic system to be provided on the roof (minimum 6.6 kW), with design efforts to ensure it has minimal visibility from the public domain, with details to be included in the application for a Construction Certificate.
- iii) A new Condition be inserted to require an electronic vehicle charging point in the basement for staff, with details to be included in the application for a Construction Certificate.
- iv) Condition 4 be amended to add the following for delivery and waste servicing: *'while seeking to ensure servicing occurs outside of peak drop off and pick up times'*.
- v) Condition 6 be amended to add the following: *'The shade sails shall be a single neutral earthy colour. Further, the coloured perspex acoustic screening to the first floor play area to the northern elevation is to be a changed to a single neutral earthy colour. Details of these changes shall be included in the application for a Construction Certificate'*.
- vi) Condition 9 to be replaced as follows – *"The acoustic boundary fencing shall be constructed in accordance with the acoustic report as referenced in Condition 1. However, the angled fence extension is not to extend eastwards past the existing front fence (on top of retaining wall) at the north eastern corner of the site, adjoining No. 206 Schultz Street. In addition, fencing to the first floor play area (northern elevation) is to be increased to 1.6 metres in height and include an acoustically treated self-closing gate at the top of the stair. Details of these changes shall be included in the application for a Construction Certificate."*
- vii) Condition 30 be amended to make reference to amended Condition 9.
- viii) Condition 33 be amended to make reference to amended Condition 9.
- ix) Condition 49 be amended to require footpath construction for the full frontage width of the site fronting Moira Crescent connecting to the existing footpath and pram ramp in Schultz Street, in accordance with Council requirements and specifications.




- x) Condition 54 to be amended to include the following “*Any identified damage as a consequence of works undertaken as part of this consent must be rectified at the expense of the Applicant. Dilapidation reports are to be provided pre and post construction. A copy of the Dilapidation Reports are to be provided to immediately adjoining neighbours to the north and west, and Penrith City Council*”.
- xi) Condition 77 is replaced with the following:
  - An additional 3 canopy trees are to be planted in the outdoor play area at ground level as marked in red on the approved Landscape Plan. Tree species are to be selected by a suitably qualified Landscape Architect and to be suitable for a Child Care Centre.
  - 1 additional tree is to be planted in the south eastern-corner of the site as marked in red on the approved Landscape Plan
  - 3 street trees (Brushboxes) are to be planted within the road reserve as marked in red on the approved Landscape Plan
- xii) Insert a new Condition to state: “*Any new or replacement fencing is to be undertaken at the full cost of the person undertaking the development and at no cost to neighbours.*”

### **Reasons for the Decision**

- i) The Panel agreed with the Council Assessment Report, with some refinements and additions to the recommended Conditions of Consent, as outlined above.
- ii) While traffic was cited as a concern for neighbours, the analysis and advice from expert Council staff was the traffic impacts would be acceptable. Additionally, the proposed parking meets Council’s Development Control Plan requirements.
- iii) The proposed use is permissible in the zone and suitable for the site.
- iv) The size of the site and it’s corner location, combined with the design including large setbacks and appropriate landscaping result in the development being contextually appropriate.
- v) The proposed tree removal is acceptable having regard to the proposed use and significant replacement and additional planting.
- vi) Environmental impacts are reasonably managed and mitigated by the design and Conditions of Consent, as amended.
- vii) Design considerations raised within submissions have been reasonably addressed by amendments to the Conditions.
- viii) The design and layout of the Child Care Centre meets regulatory requirements and provides an asset for children in the wider area.
- ix) While some impacts will result from the proposal, overall granting consent is in the wider public interest.

**Votes**

The decision was unanimous.

Jason Perica (Chair) 	Mary-Lynne Taylor (Expert) 
John Brunton (Expert) 	Geoff Martin (Community Representative) 